

Message Text

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PAGE 01 PORT M 00332 160401Z

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ACTION OPIC-06

INFO OCT-01 EA-06 ISO-00 EB-07 AID-05 TRSE-00 OMB-01 L-02

/028 W

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R 160245Z APR 75

FM AMCONSUL PORT MORESBY

TO SECSTATE WASHDC 436

INFO AMEMBASSY CANBERRA

AMCONSUL SYDNEY

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E.O. 11652: N/A

TAGS: EFIN

SUBJECT: OPIC AGREEMENT

1. MEETINGS APRIL 1 TO 4 BETWEEN HUNT OF OPIC AND VARIOUS GPNG OFFICIALS HAVE SERVED TO CORRECT SEVERAL MISCONCEPTIONS WITHIN GOVERNMENT CONCERNING OPIC AGREEMENT AND OPERATIONS, BUT DECISION AND ACTION ON AGREEMENT WILL BE DELAYED AS MATTER MUST GO BACK TO CABINET AND GPNG MAY NOT WANT TO SIGN BEFORE INDEPENDENCE.

2. MEETINGS WITH MINISTER OF NATIONAL DEVELOPMENT GAVARA REA, DEPARTMENT OF FOREIGN RELATIONS AND TRADE ACTING SECRETARY ANTHONY SIAGURU AND OFFICIALS OF FINANCE MINISTRY AND NATIONAL INDUSTRIAL DEVELOPMENT AUTHORITY HAVE GONE WELL. INTEREST SHOWN IN OPIC'S ROLE IN HELPING PNG ATTRACT DESIRED INVESTMENT. BASIC CONCERN EXPRESSED IN THESE DEPARTMENTS CAME FROM MISTAKEN BELIEF THAT ICSID (INTERNATIONAL CENTRE FOR THE SETTLEMENT OF INVESTMENT DISPUTES) MEMBERSHIP AND USE WAS A CONDITION OF OPIC COVERAGE. GPNG REJECTION OF KENNECOTT DEMAND FOR ICSID CLAUSE WAS ONE OF THE BREAKING POINTS IN RECENT NEGOTIATIONS ON OK TEDI COPPER PROJECT. HUNT MADE POINT THAT OPIC ENCOURAGES, BUT DOES NOT REQUIRE, USE OF ICSID. ALSO POINTED OUT IMPORTANT DIFFERENCES

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BETWEEN ARBITRATION OF INTERNATIONAL LAW QUESTIONS
BETWEEN GOVERNMENTS UNDER OPIC AGREEMENT AND AN

ARBITRATION AGREEMENT BETWEEN HOST GOVERNMENT AND INVESTOR.

3. LENGTHY MEETINGS WERE HELD WITH SECRETARY AND STAFF ATTORNEYS OF LAW DEPARTMENT (WHICH SERVES ENTIRE EXECUTIVE BRANCH). ALL ARE EXPATRIATES. MEETINGS WITH STAFF ATTORNEYS REVEALED STRONG NEGATIVE BIAS REGARDING FOREIGN INVESTMENT IN GENERAL AND U.S. INVESTMENT IN PARTICULAR. AMICABLE BUT TEDIOUS SESSIONS DEALT WITH ONE OBJECTION AFTER ANOTHER, CENTERING ON IDEA THAT INSURANCE BRINGS RISKS OF CONFRONTATION WITH OR UNDUE INFLUENCE BY USG. HOPEFULLY, EXTENSIVE CITATION OF OPIC RECORD AND CLARIFICATION OF PROCEDURES ACCOMPLISHED SOMETHING, BUT DOUBT THAT STAFF ATTORNEYS ARE WHOLLY CONVERTED. LAW SECRETARY IN APRIL 3 MEETING ACKNOWLEDGED THAT EARLIER LAW DEPARTMENT REPORT CRITICAL OF OPIC AGREEMENT WAS BASED ON MISCONCEPTIONS, AND SECRETARY DOES NOT DISPLAY NEGATIVE BIAS OF HIS STAFF, BUT EXTENT TO WHICH HE CAN OR WILL COUNTER THEIR NEGATIVE INDLUENCE REMAINS UNCLEAR.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENTS, INVESTMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 16 APR 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: MartinML
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975PORTM00332
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750132-0339
From: PORT MORESBY
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750444/aaaabotc.tel
Line Count: 81
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION OPIC
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: MartinML
Review Comment: n/a
Review Content Flags:
Review Date: 03 JUL 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <03 JUL 2003 by ShawDG>; APPROVED <12 NOV 2003 by MartinML>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: OPIC AGREEMENT
TAGS: EFIN, PP, OPIC
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006